

**LEGAL ISSUES**

1. Whether the 2010 amendment to SDCL 26-10-25 is applicable to claims commenced prior to the effective date of those amendments.

**Trial Court's Ruling:** The trial court held that the 2010 amendment to SDCL 26-10-25 was applicable to claims commenced prior to the effective date of that statute.

**Relevant Authority**

Baatz v. Arrow Bar, 426 NW 2d 298 (SD 1988)

Stratmeyer v. Stratmeyer, 1997 SD 96

Hohm v. City of Rapid City, 2008 SD 65, 753 NW 2d 895

State of Minn. ex rel. Hove v. Doese, 501 NW 2d 366 (SD 1993)

SDCL 2-14-24

SDCL 2-14-21

SDCL 2-14-16

SDCL 26-10-25

2. Whether application of the 2010 amendment to SDCL 26-10-25 is constitutional under federal and state constitutions.

**Trial Court's Ruling:** The trial court held that the retroactive application of the 2010 amendment to SDCL 26-10-25 was not unconstitutional.

**Relevant Authority**

Matter of Certif. of Questions of Law, 544 NW 2d 183. 188-189 (SD 1996).

United States v. Klein, 80 U.S. 128 (1871)

Cleburne v. Cleburne Living Center, Inc., 473 US 432, 440 (1985)

Romer v. Evans, 517 US 620

SDCL 26-10-25

South Dakota Constitution Article 6 § 20

Fourteenth Amendment to the United States Constitution

United States Constitution Article I, § 8, cl. 3.

3. Whether the First Amendment to the United States Constitution prohibits inquiry into the relationships of a hierarchically structured religious entity using evidence of actual behavior of that entity.

**Trial Court's Ruling:** The trial court held that the ecclesiastical abstention doctrine and the Establishment Clause of the First Amendment forbid the trial court from inquiring into the hierarchical structure of defendant religious entities.

**Relevant Authority**

Lukumi Babalu, Aye v. City of Hialeah, 508 U.S. 520, 531 (1993)

Foss v. Dykstra, 319 N.W.2d 499 (1982)

Foss v. Dykstra, 342 NW 2d 220 (SD 1983)

In re Geppert's Estate, 75 S.D. 96, 99 (S.D. 1953)

South Dakota Constitution Article 6 § 3

First Amendment to the United States Constitution

4. Whether the First Amendment to the United States Constitution prohibits inquiry into the relationships of a hierarchically structured religious entity using that entities' hierarchical documents.

**Trial Court's Ruling:** The trial court held that the ecclesiastical abstention doctrine and the Establishment Clause of the First Amendment forbid the trial court from inquiring into the hierarchical structure of defendant religious entities.

**Relevant Authority**

Lukumi Babalu, Aye v. City of Hialeah, 508 U.S. 520, 531 (1993)

Foss v. Dykstra, 319 N.W.2d 499 (1982)

Foss v. Dykstra, 342 NW 2d 220 (SD 1983)

In re Geppert's Estate, 75 S.D. 96, 99 (S.D. 1953)

South Dakota Constitution Article 6 § 3

First Amendment to the United States Constitution

5. Whether the First Amendment to the United States Constitution and Article VI § 3 prohibit granting immunity from common law agency principles to hierarchically structured religious entities.

**Trial Court's Ruling:** The trial court held that the ecclesiastical abstention doctrine and the Establishment Clause of the First Amendment forbid the trial court from inquiring into the hierarchical structure of defendant religious entities.

**Relevant Authority**

Lukumi Babalu, Aye v. City of Hialeah, 508 U.S. 520, 531 (1993)

Foss v. Dykstra, 319 N.W.2d 499 (1982)

Foss v. Dykstra, 342 NW 2d 220 (SD 1983)

In re Geppert's Estate, 75 S.D. 96, 99 (S.D. 1953)

South Dakota Constitution Article 6 § 3

First Amendment to the United States Constitution

6. Whether Defendants may be liable to Plaintiffs under the Doctrine of Respondeat Superior.

**Trial Court's Ruling:** The trial court held that the actions of the Defendants' agents and employees were not within the scope of their employment.

**Relevant Authority**

Leafgreen v. American Family Mutual Insurance Co., 393 N.W.2d 275 (S.D.1986).

Bowman v. Home Life Ins. Co. of America, 243 F.2d 331 (3rd Cir.1957)

Fearing v. Bucher, 977 P.2d 1163 (OR 1999)

7. Whether there is a genuine issue of material fact as to whether Defendant Diocese of Sioux Falls is the principal to Defendants Blue Cloud Abbey, Oblate Sisters of the Blessed Sacrament, and Sisters of the Blessed Sacrament.

**Trial Court's Ruling:** The trial court held that defendant DOSF was not the principal of the Defendants Blue Cloud Abbey, Oblate Sisters of the Blessed Sacrament, and Sisters of the Blessed Sacrament.

**Relevant Authority**

Bruske v. Hille, 567 NW 2d 872 (SD Supreme Court 1997)

Garrett v. Bankwest, Inc., 459 N.W. 2d 833, 838 (SD 1990)

Koenig v. Lambert, 527 N.W. 2d 903 (SD 1995)

SDCL 55-7-2